IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

Bail Appl..No. 7720 of 2006()

CRIME NO,. 334 OF 2006 OF MEDICAL COLLEGE POLICE STATION KOZHIKODE

PETITIONER/ACCUSED

V.MUHAMMED ALI,
S/O.AHAMMED, ALLAMPILAKKAL,
THAVANNUR, KUZHIMANNA, MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: STATE

THE STATE OF KERALA,
REP. BY THE ASSISTANT COMMISSIONER OF POLICE,
CRIME DETACHMENT, KOZHIKODE - THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.

BY D.G.P. SRI. P.G. THAMBI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/01/2007, ALONG WITH OTHER CONNECTED CASESS, THE COURT ON 10/01/2007 PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Bail Application Nos. 7720,
7722 & 7725/06

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DATED: 10-01-2007

O R D E R

In these bail applications filed under Sec. 439 Cr.P.C. the petitioners who are respectively accused Nos. 7, 8 and 9 in Crime No.334/06 of Medical College Police Station, Kozhikode for offences punishable under Sections 120 B, 121, 121 A, 465, 468, 471 read with Sec. 34 I.P.C. and Sections 7 and 14 of the Foreigners Act, 1946, Sec. 12 (b) of the Indian Passport Act and Section 7 read with Sec. 133 (1) (a) of the Prevention of Corruption Act, 1988, seek their enlargement on bail. The petitioners were arrested on 5-11-2006.

2. I heard the learned counsel for the petitioners and the learned Director General of Prosecutions Sri.P.G. Thambi.

3. From the investigation thus far conducted 12 persons whose complicity has been revealed have been arrayed as A1 to A12.

4. Opposing the applications, the Director General of Prosecutions made the following submissions before me:-

5. The first accused namely Fahad @ Muhammed Koya who has been arrested from Mysore City on 27-10-2006 after an encounter by the Karnataka Police has been found to be an active member of a terrorist organisation by name "AL-BADAR" based at Jammu and Kashmir and which

is indulging in anti - social activities against the Indian Nation with a view to subvert the Government of India. The first accused had attempted to open a shop at Calicut for the purpose of operating his anti-national activities under the pretext of opening a computer shop. He had also planned to get a marriage alliance from the family of accused Nos. 3 to 5 who had illegally given asylum knowing him to be a Pakistan National and had actively aided him to apply for an Indian passport in a fake address at Malappuram. The petitioners herein are a police constable, an extra departmental postman and another police constable who had dubious roles in trying to procure a passport for the Pakistan National. These petitioners have been hand-in-glove in the procuration of passports and other travel documents not only against receipt of illegal gratification but also with the requisite mens rea.

6. I am afraid that I cannot fully agree with the above submissions. It may be true that these three petitioners might have been guilty of dereliction of duty in the passport verification process and in the process of despatching the passport. But the investigation thus far conducted by the police does not reveal any terrorist links the petitioners. I do not think that anything beyond receiving illegal gratification in the discharge of their duties could be attributed to the petitioners. At any rate, the investigation files do not disclose that any of these three petitioners was aware that he was aiding a Pakistani National or that such person was having connection with any notorious terrorist organisation. The

petitioners have been in custody since 5-11-2006 onwards. Having regard to the investigation so far conducted by the police and the duration of judicial custody undergone by the petitioners, I am of the view that the continued pre-trial incarceration of the petitioners is not warranted. Accordingly, petitioners are directed to be released on bail on each of them executing a bond for Rs. 15,000/- (Rupees fifteen thousand only) with two solvent sureties each for the like amount to the satisfaction of the J.F.C.M., Kunnamangalam and subject to the following conditions:-

1. The petitioners shall report before the Investigating Officer between 9 a.m. and 11 a.m. on all Wednesdays.

2. The petitioners shall make themselves available for interrogation as and when required by the police till the filing of the final report.

3. The petitioners shall not influence or intimidate the prosecution witnesses nor shall they attempt to tamper with the evidence for the prosecution.

4. The petitioners shall not commit any offence while on bail.

If the petitioners commit breach of any of the above conditions, the bail granted to them shall be liable to be cancelled.

These Bail Applications are allowed as above.

V.RAMKUMAR, JUDGE.

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